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SENATE BILL NO. 242

Senate Amendments in [] — February 8, 2008

A *BILL to amend and reenact §§ 62.1-198 and 62.1-199 of the Code of Virginia, relating to the Virginia Resources Authority's financing of energy conservation measures and facility technology infrastructure.*

Patrons Prior to Engrossment—Senator Locke; Delegate: Eisenberg

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That §§ 62.1-198 and 62.1-199 of the Code of Virginia are amended and reenacted as follows:**

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; *energy conservation and energy* [~~efficient building efficiency~~] *projects*; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; and the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, *energy conservation and energy* [~~efficient building efficiency~~] *projects*, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, technology and infrastructure for wireless broadband services, and federal facilities or former federal facilities. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other evidences of indebtedness of the Authority.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred before placing the project in service, interest on local obligations issued to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, the funding of accounts and reserves which the Authority may require and the cost of other items which the Authority determines to be reasonable and necessary. It also includes the amount of any contribution, grant or aid which a local government may make or give to any adjoining state, the District of Columbia or any department, agency or instrumentality

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60 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without
61 limitation, the items set forth above. The term also includes interest and principal payments pursuant to
62 any installment purchase agreement.

63 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other
64 forms of collateral or security.

65 "Federal facility" means any building or infrastructure used or to be used by the federal government,
66 including any building or infrastructure located on lands owned by the federal government.

67 "Federal government" means the United States of America, or any department, agency or
68 instrumentality, corporate or otherwise, of the United States of America.

69 "Former federal facility" means any federal facility formerly used by the federal government or in
70 transition from use by the federal government to a facility all or part of which is to serve any local
71 government.

72 "Local government" means any county, city, town, municipal corporation, authority, district,
73 commission or political subdivision created by the General Assembly or pursuant to the Constitution and
74 laws of the Commonwealth or any combination of any two or more of the foregoing.

75 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue
76 anticipation notes, leases or any other evidences of indebtedness of a local government.

77 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
78 amount of money designated as the minimum capital reserve fund requirement which may be established
79 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
80 outstanding issue of bonds or credit enhancement.

81 "Project" means (i) any water supply or wastewater treatment facility including a facility for
82 receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment,
83 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
84 recovery facility located or to be located in the Commonwealth, the District of Columbia or any
85 adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any
86 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors
87 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,
88 or credit enhancement from the Authority make a determination or finding to be embodied in a
89 resolution or ordinance that the undertaking and financing of such facility is necessary for the location
90 or retention of such facility and the related use by the federal government in the Commonwealth. The
91 term includes, without limitation, water supply and intake facilities; water treatment and filtration
92 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface
93 and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid
94 waste treatment, disposal or management facilities; recycling facilities; resource recovery facilities;
95 related office, administrative, storage, maintenance and laboratory facilities; and interests in land related
96 thereto. *The term also includes energy conservation measures and facility technology infrastructure as*
97 *defined in § 11-34.2 and other energy objectives as defined in § 67-101.* The term also means any heavy
98 rail transportation facilities operated by a transportation district, created under the Transportation District
99 Act of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock,
100 barge loading facilities, and any related marine or rail equipment. The term also means, without
101 limitation, the design and construction of roads, public parking garages and other public transportation
102 facilities, and facilities for public transportation by commuter rail. In addition, the term means any
103 project as defined in § 5.1-30.1 and any professional sports facility, including a major league baseball
104 stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have
105 been designated by the General Assembly as eligible for assistance from the Authority. The term also
106 means any equipment, facilities, and technology infrastructure designed to provide wireless broadband
107 service. The term also means facilities supporting, related to, or otherwise used for public safety
108 including, but not limited to, law-enforcement training facilities and emergency response, fire, rescue and
109 police stations. The term also means the remediation, redevelopment and rehabilitation of property
110 contaminated by the release of hazardous substances, hazardous wastes, solid wastes or petroleum where
111 such remediation has not clearly been mandated by the United States Environmental Protection Agency,
112 the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental
113 Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and
114 Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the
115 State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where
116 jurisdiction of those statutes has been waived. The term also means any program or project for land
117 conservation or land preservation, including but not limited to any program or project involving the
118 acquisition of rights or interests in land for the conservation or preservation of such land.